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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,847	04/12/2001	B.C. Hornady	HORNADY-2	2215

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Bradley Arant Rose & White LLP
Suite 1400
2001 Park Place
Birmingham, AL 35203-2736

EXAMINER	
GUTMAN, HILARY L	

ART UNIT	PAPER NUMBER
3612	

DATE MAILED: 01/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/833,847	Hornady
Examiner	**Art Unit**
Hilary Gutman	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *10/18/2002 and 12/3/2002*.

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-3, 9-12, 15, and 16* is/are rejected.

7) ☒ Claim(s) *4-8, 13, and 14* is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *Apr 12, 2001* is/are a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of spring loaded locking mechanisms" of claim 11, the "plurality of snap shackles" of claim 12, and the "safety cable" of claim 14 must all be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '573.

Re claims 1-3, JP '573 discloses an apparatus for covering payloads 3, the apparatus comprising: a suspended track 59, a hoist 15, 17, slidably engaged to the track, the hoist having a retractable line, generally 19; a spreader bar 13 attachable to the retractable line, the bar 13 having means 23 for attaching to a covering 21; and means (not shown, but inherent) to move the hoist.

JP' 573 further discloses a rod 25 that traverses beneath the track. The rod is inherently rotatable about its axis.

Re claims 15-16, JP '573 discloses an apparatus for covering a payload 3, the apparatus comprising a movable hoist 15, 17 slidably suspended over the payload, the hoist having a retractable line, generally 19, that can be connected to a covering 21 to be spread over the payload. JP '573 further discloses the apparatus comprising: a spreader bar 13 that connects to the covering and to the retractable line; and a means 25 to support the trailing portion of the covering as the covering is pulled over the payload by the hoist.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573 in view of Stewart '028.

JP '573 does not specifically disclose the means to move the hoist and specifically lacks the means to move the hoist comprising an electronically operable remote controlled system.

Stewart '028 discloses an apparatus for load handling, the apparatus comprising: a suspended track, a hoist slidably engaged to the track; and means 96, 97 to move the hoist. The means to move the hoist comprise an electronically operable remote controlled system. In addition, the apparatus further comprises a guide 97 extending laterally from the hoist; and a wire (not numbered but seen in Figures 1 and 3) connected at one end to the hoist, running along the guide, and connected at the other end to the remote controlled system 96.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an electronically operable remote controlled system, guide, and wire, as taught by Stewart '028, in place of the means of JP '573 in order to allow one man control of the entire crane assembly from ground level thereby allowing an operator to easily move the hoist while remaining a distance away from the hoist thereby remaining safe.

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573 in view of Carlsson.

JP '573 discloses the means for attaching to a covering comprises a hanging fixture 23 and more specifically a plurality of hanging fixtures 23 (Figure 4) but does not specifically disclose the hanging fixtures being a plurality of spring loaded locking mechanisms or snap shackles.

Carlsson discloses a snap shackle. A user can easily and conveniently operate this snap shackle with one hand and the snap shackle is not complicated, heavy, or expensive to produce.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used spring loaded locking mechanisms or snap shackles as taught by Carlsson in place of the hanging fixtures of JP '573 in order to allow a user to easily operate the snap shackle with one hand thereby providing the user one hand to hold on to something during the operation of the shackle.

Allowable Subject Matter

7. Claims 4-8 and 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 10/18/2002 have been fully considered but they are not persuasive.

With regard to applicants arguments regarding the 102 rejection, the examiner believes that the JP '573 does disclose all of the limitations of the claim as broadly recited and interpreted. Specifically, the applicant admits that the crane can be raised and lowered and further goes on to state that the drawing appear to show a dual chain pulley system. The examiner would like to point out that with regard to the "retractable line" this term is broadly interpreted to mean a line which moves between a lowered position, as is inherent from JP '573, and a raised position (Figure 1). Therefore, JP '573 clearly discloses a "retractable" line.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a retractable line which is "maneuvered in multiple directions") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to the Stewart '028 reference the applicant states that the reference does indeed disclose means for moving the hoist and further states that the means for remote operations is suspended to the crane apparatus.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the means for operating and moving the hoist "need not be suspended or connected in any way to the apparatus") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d

1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is to allow one man control of the entire crane assembly from ground level thereby allowing an operator to easily move the hoist while remaining a distance away from the hoist thereby remaining safe.

The applicant states that there is no citation or support for the combination of the Stewart and JP '573 references. The examiner would like to direct the applicant's attention to Column 1, lines 62-65 of Stewart '028 and would also like to point out that motivation can also be found in the knowledge generally available to one of ordinary skill in the art.

With regard to the rejection of the claims using the combination of JP '573 with the Carlsson '047 reference, the applicant states that there is no suggestion to combine the references.

In response to this argument, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is to allow a user to easily operate the snap shackle with one hand thereby providing the user one hand to hold on to something during the operation of the shackle (Column 1, lines 23-28 of Carlsson '047). More specifically, snap shackles are well known in the art for use in covering systems (see also La Madeleine '926). The desirability of the snap shackles of Carlsson '047 in place of hanging

fixtures of JP '573 is envisioned to allow one to quickly and easily attach and remove of the covering 21 to the bar 13.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other apparatus for covering payloads similar to that of the current invention.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.

12. **Any response to this final action should be mailed to:**

Box AF

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703)305-3597, (for formal communications; please mark "EXPEDITED PROCEDURE")

or:

(703)305-0285, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

hlg

January 2, 2003

1/6/07

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600